

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUAN LOPEZ, on behalf of
himself, FLSA Collective
Plaintiffs and the Class

Plaintiff,

Case No.: 20-cv-09113

v.

THERMO TECH MECHANICAL, INC.
GOWKARRAN BUDHU and
SHANTI BUDHU,

Defendants.

REMOTE DEPOSITION OF GOWKARRAN BUDHU,
a witness herein, called by the Plaintiff for
examination, taken by and before Ann Medis,
Registered Professional Reporter and Notary Public
in and for the Commonwealth of Pennsylvania, via
Zoom videoconference, on Thursday, September 28,
2023, commencing at 10:15 a.m.

Job No: 7982

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 On behalf of Plaintiff</p> <p>3 LEE LITIGATION GROUP, PLLC</p> <p>4 BY: C.K. LEE, ESQUIRE</p> <p>5 148 West 24th Street, Eighth Floor</p> <p>6 New York, New York 10011</p> <p>7 212.465.1188</p> <p>8 james@leelitigation.com</p> <p>9 On behalf of Defendants</p> <p>10 LEVIN-EPSTEIN & ASSOCIATES, P.C.</p> <p>11 BY: EUNON JASON MIZRAHI, ESQUIRE</p> <p>12 60 East 42nd Street, Suite 4700</p> <p>13 New York, New York 10165</p> <p>14 212.792.0048</p> <p>15 jason@levinepstein.com</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1 *INDEX*</p> <p>2 GOWKARRAN BUDHU PAGE</p> <p>3 EXAMINATION BY MR. LEE 4</p> <p>4</p> <p>5 *INDEX OF PLAINTIFF'S EXHIBITS*</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Exhibit 2 21</p> <p>8 Exhibit 5 34</p> <p>9 Exhibit 10 34</p> <p>10 Exhibit 11 13</p> <p>11 Exhibit 14 25</p> <p>12</p> <p>13 (Exhibits were retained by Mr. Lee.)</p> <p>14</p> <p>15 ----</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS</p> <p>2 -----</p> <p>3 GOWKARRAN BUDHU,</p> <p>4 having been first duly sworn, was examined</p> <p>5 and testified as follows:</p> <p>6 EXAMINATION</p> <p>7 BY MR. LEE:</p> <p>8 Q. Good morning, sir. I just want to</p> <p>9 confirm the spelling of your legal name. It's</p> <p>10 G-O-W-K-A-R-R-A-N and your last name is B-U-D-H-U;</p> <p>11 is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And you also, I believe, go by Tony;</p> <p>14 right?</p> <p>15 A. Tony.</p> <p>16 Q. Can you give me your current residential</p> <p>17 address please, sir?</p> <p>18 A. [REDACTED], New</p> <p>19 York [REDACTED].</p> <p>20 Q. It's [REDACTED]?</p> <p>21 A. Yes.</p> <p>22 Q. Is that [REDACTED] like [REDACTED]?</p> <p>23 A. Yep.</p> <p>24 Q. And it's a house I assume; right?</p> <p>25 A. Yep, private house.</p>	<p style="text-align: right;">Page 5</p> <p>1 Q. How long have you lived there, sir?</p> <p>2 A. Since probably seven years, six or seven</p> <p>3 years.</p> <p>4 Q. Okay. And you own your residence?</p> <p>5 A. Yes.</p> <p>6 MR. MIZRAHI: I'm making a quick note,</p> <p>7 C.K., before you ask your next question, just a</p> <p>8 quick note for the record I'm noticing that this</p> <p>9 deposition appears to be recorded by audiovisual</p> <p>10 means at the top left corner of my screen.</p> <p>11 There's a notation on the Zoom function that</p> <p>12 indicates that this is being video recorded.</p> <p>13 Just a note that the Notice of</p> <p>14 Deposition did not contain a notice that the</p> <p>15 deposition would be recorded by any other means</p> <p>16 beyond stenographic means. And while we can</p> <p>17 continue today, we're specifically going to</p> <p>18 reserve the right to object in the future on the</p> <p>19 basis of the audio-visual recording. We can</p> <p>20 continue.</p> <p>21 BY MR. LEE:</p> <p>22 Q. And can you let me know what email</p> <p>23 address you use?</p> <p>24 A. Personal or business?</p> <p>25 Q. Let's start with your personal account.</p>

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1 A. [REDACTED]@gmail.com.
 2 Q. [REDACTED]@gmail.com?
 3 A. Yes.
 4 Q. How long have you used that email, sir?
 5 A. All my life, since I got an email, never
 6 had another email. That's the only email I ever
 7 had.
 8 Q. Okay. So how old are you now, sir?
 9 A. I'm 47.
 10 Q. And your birth date?
 11 A. [REDACTED].
 12 Q. So you started the gmail account maybe
 13 when you were ten years old, something like that?
 14 A. Probably a little bit more than that.
 15 Q. Older or younger?
 16 A. Of the gmail account?
 17 Q. Yeah, when you opened this gmail
 18 account.
 19 A. Yeah. It was a long time. It's got to
 20 be more than 10 years.
 21 Q. No, I meant when you were ten years old?
 22 A. No, no. I was like probably maybe early
 23 2000s I would think. A long time. I don't
 24 remember.
 25 Q. When you were in your mid 20s?

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1 A. I would say so, yeah, yeah.
 2 Q. And what is your work email?
 3 A. It's [REDACTED]@thermotechmech.com and
 4 also --
 5 Q. Can you slow it down so the reporter can
 6 write it down.
 7 A. [REDACTED]@thermotechmech.com.
 8 Q. Thermo Tech?
 9 A. Yeah.
 10 Q. Okay. Any other emails?
 11 A. [REDACTED]@thermotechmech.com.
 12 Q. [REDACTED]@thermotechmech.com?
 13 A. Yeah.
 14 Q. Anything else?
 15 A. No.
 16 Q. Is the office email one that you share
 17 with other people?
 18 A. Yeah.
 19 Q. Who do you share it with?
 20 A. All of our staff that are working in the
 21 office.
 22 Q. How many staff work in the office?
 23 A. One, two -- five of us.
 24 Q. So I believe you are the president
 25 of -- I'm sorry -- the email, is that Thermo with

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1 an O like Thermo Tech?
 2 A. Yes, T-H-E-R-M-O.
 3 Q. The five people that work in the office
 4 is yourself; right?
 5 A. Yes.
 6 Q. And would it also be Steven Budhu?
 7 A. Yes.
 8 Q. And would it be Shanti Budhu?
 9 A. No. Shanti is no longer -- Shanti is no
 10 longer working there. She's disabled.
 11 Q. Did she used to work in the office?
 12 A. Yes.
 13 Q. Okay. And then Pheronya?
 14 A. Yes.
 15 Q. Amjit; right?
 16 A. Yes.
 17 Q. I guess before, that was four persons.
 18 Was there another person?
 19 A. Melissa Amjit.
 20 Q. Is Melissa and Pheronya related somehow?
 21 A. Yeah. They're cousins.
 22 Q. Are you related to Melissa or Pheronya?
 23 A. No.
 24 Q. So they, themselves, are related, but
 25 you're not related to them?

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1 A. No.
 2 Q. But you're related to Steve and Shanti;
 3 right?
 4 A. Shanti is my wife. Steven is my
 5 brother.
 6 Q. So you mentioned that your wife is
 7 disabled now. What's her disability now?
 8 A. She had spinal surgery, and she doesn't
 9 walk anymore.
 10 Q. I'm sorry to hear that. When did that
 11 occur, sir?
 12 A. About four years ago.
 13 Q. And do you have children, sir?
 14 A. Yeah. We have two children.
 15 Q. Their ages, sir?
 16 A. 26 and 22.
 17 Q. Okay. So you had kids, I guess,
 18 relatively young; right?
 19 A. Yes. We were married at 20.
 20 Q. You got married when you were 20?
 21 A. Yeah.
 22 Q. Wow. That's young. That's great.
 23 Congrats. It's good to start early and finish
 24 early; right?
 25 A. Yep.

3 (Pages 6 to 9)

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<p>1 Q. Let's see. I'm sorry that we are</p> <p>2 meeting under difficult circumstances. You</p> <p>3 understand that you're currently being produced as</p> <p>4 a corporate representative for Thermo Tech</p> <p>5 Mechanical; right, sir?</p> <p>6 A. Yes.</p> <p>7 Q. And you're also being produced in your</p> <p>8 own individual capacity I believe as the president</p> <p>9 of Thermo Tech Mechanical; right?</p> <p>10 A. Yes.</p> <p>11 Q. And so Thermo Tech, I guess the business</p> <p>12 is you guys install and repair HVAC systems; is</p> <p>13 that right?</p> <p>14 A. Yes.</p> <p>15 MR. LEE: For the court reporter, HVAC</p> <p>16 is H-V-A-C.</p> <p>17 BY MR. LEE:</p> <p>18 Q. Those are basically, I guess, cooling,</p> <p>19 cooling units?</p> <p>20 A. It's heating, ventilation and air</p> <p>21 conditioning.</p> <p>22 Q. So it's both heating and cooling?</p> <p>23 A. Yes.</p> <p>24 Q. And do you do it for -- you do it for</p> <p>25 corporates and businesses only, or do you also do</p>	<p>1 residential?</p> <p>2 A. I do it for public and private entity,</p> <p>3 mostly commercial.</p> <p>4 Q. When you say public and private</p> <p>5 entities, you mean public entities like schools</p> <p>6 and hospitals; right?</p> <p>7 A. Schools, hospital, metropolitan -- MTA,</p> <p>8 federal.</p> <p>9 Q. When you say private, that just means</p> <p>10 private corporations; right?</p> <p>11 A. Yes.</p> <p>12 Q. But the company doesn't -- isn't really</p> <p>13 working on like homes or residences; right?</p> <p>14 A. No. We don't really do residential</p> <p>15 work.</p> <p>16 Q. Okay. So how did you get into this</p> <p>17 business?</p> <p>18 A. I was 18 years old, and I was a helper</p> <p>19 for a company that had three, four employees.</p> <p>20 Three days a week I had to deliver soda, which is</p> <p>21 the syrup and the carbon dioxide to those bars</p> <p>22 that you have the spray gun and you go to the bar</p> <p>23 and they spray your soda in a cup.</p> <p>24 Q. Yeah, yeah.</p> <p>25 A. Deliver the syrup and the CO2. I was a</p>
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<p>1 helper with the boss doing this, and I helped him</p> <p>2 for like about a year. Then the boss dropped</p> <p>3 dead, and I stayed with the company. I went to</p> <p>4 air conditioning school. All the customers was</p> <p>5 still out there. Nobody is there to take and do</p> <p>6 anything. So whatever little customer, whatever</p> <p>7 little I know, I did side jobs, and the side jobs</p> <p>8 that I go to became more and more and more until</p> <p>9 it turns into a business.</p> <p>10 Q. Okay. And so I believe at any given</p> <p>11 time, you have about 40 people working at your</p> <p>12 company; right?</p> <p>13 MR. MIZRAHI: Objection to the form of</p> <p>14 the question.</p> <p>15 You can respond.</p> <p>16 THE WITNESS: I mean, I don't think we</p> <p>17 ever had that much staff at any given time. I</p> <p>18 think at most --</p> <p>19 BY MR. LEE:</p> <p>20 Q. Let me ask you a question. So other</p> <p>21 than the five people and administration, right,</p> <p>22 the people that work in the office?</p> <p>23 A. Um-hum.</p> <p>24 Q. I think everybody else that works at</p> <p>25 your company are HVAC installers or helpers; is</p>	<p>1 that right?</p> <p>2 MR. MIZRAHI: Objection to the form of</p> <p>3 that question.</p> <p>4 Tony, you can respond.</p> <p>5 THE WITNESS: Not really. There are</p> <p>6 many tasks that has to be done that are designated</p> <p>7 to different people. We have people who are just</p> <p>8 doing delivery. We have people who are just sheet</p> <p>9 metal workers. We have people who are just</p> <p>10 technicians. We have people who are just</p> <p>11 fabricators. We have people who are just project</p> <p>12 management. So there are different roles.</p> <p>13 BY MR. LEE:</p> <p>14 Q. Okay.</p> <p>15 MR. LEE: Jenie, can you pull up</p> <p>16 Plaintiff's Exhibit 11.</p> <p>17 BY MR. LEE:</p> <p>18 Q. Do you see this document, sir? It's</p> <p>19 Bates-stamped 335.</p> <p>20 A. You got to zoom it in. I can't see it.</p> <p>21 Maybe I can zoom it. Let me see.</p> <p>22 Q. We're going to pull it up. Anyway, this</p> <p>23 is marked as Plaintiff's Exhibit 11. And do you</p> <p>24 see that this is a document from I think</p> <p>25 California Insurance Company?</p>

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1 A. Okay. What's that?

2 Q. Do you know what this document is, sir?

3 A. No.

4 Q. Have you ever seen this document?

5 A. Not to my memory.

6 Q. California Insurance Company, is that an

7 insurer of your business.

8 A. Not that I ever recall.

9 Q. Well, this document was produced by your

10 attorney. Do you know who was responsible for

11 producing documents for discovery in this lawsuit?

12 A. Pheronya would have produced all the

13 documents, but I need to verify. We change

14 carrier from time to time. So I don't remember

15 which is what.

16 Q. But do you recognize that California

17 Insurance Company could have been a carrier for

18 your company?

19 A. It could have been.

20 Q. And do you see on this document it says

21 on its schedule that Thermo Tech Mechanical is a

22 client of California Insurance Company?

23 Do you see that?

24 A. Okay. Yeah.

25 Q. And do you see that it has an effective

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1 Q. It has here the estimated number of

2 employees at your company. Is that number

3 accurate? It says 41.

4 A. The reason they have it like that is

5 because we have PLA, which is project labor

6 agreement. We hire people from the union hall for

7 like two days or one day probably a week, but it

8 will be a new guy every time you call. When you

9 look at the year, it looks like a lot of employee,

10 a lot of turnover, but it's not because the

11 project requires union. So we will bring one guy

12 specifically for that task if it's only for a week

13 or maybe two days or maybe, you know, three weeks.

14 And every time you change, a different

15 guy is coming in. So it looks like a lot of

16 people when you look at the payroll at the end of

17 the year, but it's not. We have an average of

18 about 15 to 18 people at all times, somewhere

19 around there.

20 Q. The actual people who are doing like

21 HVAC installation and repair, right, it's about 15

22 to 18 people at any given time?

23 A. In the office. So we're talking about

24 probably ten guys on the road.

25 Q. Okay.

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1 date of January 2019?

2 Do you see that, sir?

3 A. Yes.

4 Q. Okay. Do you recall now that California

5 Insurance Company was a carrier for your company

6 back in 2019?

7 A. No, I don't. I don't recall. I have to

8 check.

9 Q. Who would know?

10 A. The records are in the office. I would

11 just have to just go pull the insurance folders.

12 Q. So I think your wife Shanti was a

13 bookkeeper. Is there a bookkeeper after your

14 wife?

15 A. Pheronya is the bookkeeper after my

16 wife.

17 Q. She's the bookkeeper now. When did she

18 assume those duties?

19 A. Probably about four years ago, as soon

20 as Shanti got sick.

21 Q. So right now it's 2023. So around 2019?

22 A. Yeah, I would say so.

23 Q. So right around this time, possibly this

24 insurance company was the carrier; right?

25 A. Yeah. I would think so, yeah.

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1 A. Yeah.

2 Q. But then so what does PLA stand for

3 again?

4 A. Project labor agreement.

5 Q. And you're saying for various project

6 labor agreements, you have to use certain

7 individuals that are affiliated with the union?

8 A. That's correct.

9 Q. And so you'll use, I guess, a certain

10 number of people as required for certain projects;

11 is that right?

12 A. Yeah. Per the PLA agreement, it will

13 tell you the ratio, number of people to your

14 employees, and it will also tell you the trade

15 specifics, if it's Local 638, depending on what

16 the task is.

17 Q. And then so these different people, will

18 they be working on a project for like a week or

19 two weeks?

20 A. Yeah. It can be a week. It can be two

21 weeks. It can be one day.

22 Q. Then these guys are paid on your

23 payroll; right?

24 A. When the project is finished, they get

25 laid off automatically. They go back to the union

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<p>1 hall. And if we ever need a guy again, we call</p> <p>2 the same union if it's the same trade, and they</p> <p>3 will send not the same guy. Sometimes they do</p> <p>4 send the same guy. But they will send another</p> <p>5 guy.</p> <p>6 Q. So how many projects -- how many of</p> <p>7 these projects with PLAs would you be undertaking</p> <p>8 a year? Is it one a week, like two a week? Like</p> <p>9 how many are those?</p> <p>10 A. We will have like probably 10, 15</p> <p>11 projects per year.</p> <p>12 Q. Okay. And then so each project would</p> <p>13 require what, two to five temporary people from</p> <p>14 the union that would be on your payroll?</p> <p>15 A. Again, it all depends on what it is. It</p> <p>16 can be more. It can be less.</p> <p>17 Q. Okay. And then so over the course of,</p> <p>18 let's say, one year, even though your total</p> <p>19 headcount for people that are permanently on your</p> <p>20 payroll is only around, let's say, ten --</p> <p>21 A. Yeah.</p> <p>22 Q. -- the actual headcount at the end of</p> <p>23 the year can easily be like 50 or 60 people;</p> <p>24 right?</p> <p>25 A. When you look at the year, but in all</p>	<p>1 actuality, they may be there for only a day or</p> <p>2 maybe a week.</p> <p>3 Q. Okay.</p> <p>4 A. Yeah.</p> <p>5 Q. Okay. So you work full time; right,</p> <p>6 sir?</p> <p>7 A. Yes.</p> <p>8 Q. Do you work full time at the office?</p> <p>9 A. Yes, and out in the field. I go to</p> <p>10 field meetings and also at the office.</p> <p>11 Q. And so do you hire staff?</p> <p>12 A. Yes.</p> <p>13 Q. So you hire like these HVAC guys that</p> <p>14 you work with?</p> <p>15 A. Yes.</p> <p>16 Q. And if they're doing a bad job, you</p> <p>17 could fire them; right?</p> <p>18 A. Well, we try to keep people as long as</p> <p>19 we can and train them.</p> <p>20 Q. But if something terrible --</p> <p>21 (Simultaneous speaking.)</p> <p>22 Q. It's a little bit different from normal</p> <p>23 talking. You have to wait until I finish. Then</p> <p>24 you talk. And then I wait until you finish. And</p> <p>25 then I talk. You have to respond verbally, so</p>
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<p>1 just to clarify.</p> <p>2 So if you really wanted to, you can</p> <p>3 terminate someone at your company; right?</p> <p>4 A. Yes.</p> <p>5 Q. And you set the compensation for your</p> <p>6 employees?</p> <p>7 A. Yes.</p> <p>8 Q. And you can give people more work hours</p> <p>9 or less work hours; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And you have access to all the employee</p> <p>12 records; right?</p> <p>13 A. Yes.</p> <p>14 Q. And your brother Steve, does he hire and</p> <p>15 fire people also?</p> <p>16 MR. MIZRAHI: Objection to the form of</p> <p>17 question.</p> <p>18 Tony, you can respond.</p> <p>19 THE WITNESS: For the most, I do those</p> <p>20 things. He usually take the guys and train them.</p> <p>21 He don't really do the hiring and firing. He can</p> <p>22 recommend if the guy is good or not.</p> <p>23 BY MR. LEE:</p> <p>24 Q. Okay. And is your wife involved in the</p> <p>25 business at all part time or no?</p>	<p>1 A. Not at all.</p> <p>2 MR. LEE: Jenie, can you pull up</p> <p>3 Exhibit P2.</p> <p>4 BY MR. LEE:</p> <p>5 Q. So do you know what this document is,</p> <p>6 sir?</p> <p>7 A. What document? I don't see anything.</p> <p>8 Hold on one second. It's a lawsuit with Juan</p> <p>9 Lopez against us.</p> <p>10 Q. That's right. That's right. Have you</p> <p>11 ever seen this document before, sir?</p> <p>12 A. Yeah.</p> <p>13 Q. Have you read this document?</p> <p>14 A. Briefly.</p> <p>15 Q. Can you tell me in your own words what</p> <p>16 the claims are from Mr. Lopez?</p> <p>17 A. From my understanding, he's claiming</p> <p>18 that we owe him money.</p> <p>19 Q. Can you tell me why he believes the</p> <p>20 company owes him money? Can you tell us what his</p> <p>21 specific allegations are?</p> <p>22 MR. MIZRAHI: Objection to the form of</p> <p>23 that question.</p> <p>24 Tony, you may respond.</p> <p>25 THE WITNESS: He told me one time that</p>

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<p>1 his dad was sick and he needed to buy a house and</p> <p>2 he's traveling. He need more money. I'm not sure</p> <p>3 if that's my problem.</p> <p>4 BY MR. LEE:</p> <p>5 Q. Are you aware of what the allegations</p> <p>6 are in the complaint against the company and</p> <p>7 yourself?</p> <p>8 A. Yes. He's claiming we didn't pay him</p> <p>9 for the hours he worked, and we did. That's all I</p> <p>10 know.</p> <p>11 Q. Okay. I'm sorry. Just to clarify, when</p> <p>12 Shanti was working there, right, at Thermo Tech,</p> <p>13 was she a bookkeeper, or did she have other job</p> <p>14 duties also?</p> <p>15 A. She was bookkeeping. She's also helping</p> <p>16 taking phone calls, doing project stuff. We're a</p> <p>17 small business. We do many things at the same</p> <p>18 time.</p> <p>19 Q. Does Shanti also hire or fire people?</p> <p>20 A. No.</p> <p>21 Q. No?</p> <p>22 A. No.</p> <p>23 Q. If somebody wanted a raise, can she give</p> <p>24 them a raise?</p> <p>25 A. No.</p>	<p>1 Q. If somebody wanted to take a day off,</p> <p>2 does she let them take a day off?</p> <p>3 A. No.</p> <p>4 Q. And what was Shanti's job duties when</p> <p>5 she was there?</p> <p>6 A. Payroll, account payable, receivable,</p> <p>7 answering telephone, paying the bills, depositing</p> <p>8 checks.</p> <p>9 Q. Was she the person responsible for</p> <p>10 ensuring that employees were paid correctly?</p> <p>11 A. She's responsible to enter the</p> <p>12 information into the system from what she received</p> <p>13 and making sure that they reflect what is on the</p> <p>14 papers, you know. If a guy works 10 hours, you</p> <p>15 have to enter it. Their rates are there in the</p> <p>16 computer.</p> <p>17 Q. But if somebody had a question about the</p> <p>18 wage policies at the company, would they go to</p> <p>19 you, or would they go to her, or could they go to</p> <p>20 both people?</p> <p>21 A. They go to me only.</p> <p>22 Q. And you would answer the questions</p> <p>23 regarding people's wage questions?</p> <p>24 A. Yes.</p> <p>25 Q. And just to clarify, you're not a -- you</p>
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<p>1 don't have an accounting degree; right?</p> <p>2 A. No.</p> <p>3 Q. And you also don't have a law degree;</p> <p>4 right?</p> <p>5 A. No.</p> <p>6 Q. Okay. And so you were the person</p> <p>7 responsible for ensuring that Thermo Tech was in</p> <p>8 compliance with prevailing wage requirements?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And you were the person</p> <p>11 responsible for ensuring that Thermo Tech's</p> <p>12 employees were properly paid under federal and</p> <p>13 state wage laws?</p> <p>14 A. Yes.</p> <p>15 Q. So what did you do to implement policies</p> <p>16 to ensure that employees were accurately paid?</p> <p>17 A. I would review the sign-in sheets. I</p> <p>18 would review the task that they're doing, if</p> <p>19 they're steamfitters or they're sheet metal</p> <p>20 workers or they're laborers. The job description</p> <p>21 have to match the current prevailing wage that are</p> <p>22 on the city sites' records, that we don't follow</p> <p>23 expired wage rates, the most current, and it also</p> <p>24 have to match exactly the work that that person is</p> <p>25 doing.</p>	<p>1 If a guy is doing ductwork, he has to</p> <p>2 have the sheet metal wage rate for that at that</p> <p>3 time. I'm the guy who made sure all of those</p> <p>4 things match up.</p> <p>5 Q. So I believe people, when they're</p> <p>6 filling out their time records, they were required</p> <p>7 to provide rounded times. Is that accurate?</p> <p>8 MR. MIZRAHI: Objection to the form of</p> <p>9 that question.</p> <p>10 Tony, you may respond.</p> <p>11 THE WITNESS: No. Your shift is given</p> <p>12 to you. You start at 8:00 and end at 4:30, for</p> <p>13 example. You're going to be at, you know, Battery</p> <p>14 Tunnel bathroom job or you're going to be at parks</p> <p>15 and recreation job. You show up at that time.</p> <p>16 You leave at that time. And that should be on</p> <p>17 your time sheet.</p> <p>18 MR. LEE: Jenie, can you pull up</p> <p>19 Plaintiff's Exhibit 14.</p> <p>20 BY MR. LEE:</p> <p>21 Q. Do you see this document, which is, I</p> <p>22 guess, punch-in/punch-out records for Juan Lopez</p> <p>23 for the workweek starting March 12, 2018? Do you</p> <p>24 see this, sir?</p> <p>25 A. Yeah.</p>

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1 Q. Now, do you see that his hours are
2 rounded to the nearest whole hours?

3 MR. MIZRAHI: Objection to the form of
4 that question.

5 Tony, you may respond.

6 THE WITNESS: That's his shift. That's
7 what time he should be there, and that's what time
8 he should be leaving there.

9 BY MR. LEE:

10 Q. So are you aware that a company is
11 supposed to pay an employee for actual hours
12 worked and not for their scheduled work shift?

13 MR. MIZRAHI: Same objection.

14 Tony, you may respond.

15 THE WITNESS: Absolutely.

16 BY MR. LEE:

17 Q. And are you saying that Mr. Lopez worked
18 exactly eight hours to the minute four days in
19 this workweek?

20 A. Absolutely. That's his schedule. You
21 have to be there at 7:00 and you have to leave at,
22 and you have your lunch hour in between. If you
23 show up there at 5:00 in the morning, that's not
24 my problem. You need to be there at 7:00.

25 If you leave there at 6:00 in the

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1 afternoon and you're supposed to be leaving there
2 at 3:00, you need to authorize overtime. So you
3 must punch in when you're being told, and your app
4 is going to prove your location if you're there or
5 not.

6 Q. But do you agree an individual should be
7 logging in their actual time started? For
8 example, they might have gotten in a minute or two
9 early, right, and started working. Do you think
10 that they should be clocking in those times?

11 MR. MIZRAHI: Same objection.

12 Tony, you may respond.

13 THE WITNESS: They should clock in when
14 they're supposed to be there, just like a time
15 clock. When you come in and you punch your card
16 in the time clock, that's the way it should be.
17 You walk into the site. You could come to the
18 site two hours before, one hour before. You're
19 outside eating your breakfast, whatever. But when
20 you walk into the site, that's what you have to
21 write on the paper. I walked in the site this
22 time and I walked out of the site that time.

23 BY MR. LEE:

24 Q. But what about, for example, at the end
25 shift, you have him clocking out at 3:00 p.m.

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1 every single day.

2 Do you see that?

3 A. Yeah. That's when he's supposed to be
4 leaving.

5 Q. Is it possible that he's actually not
6 leaving at 3:00 and he's staying a little bit
7 later because he cannot input his actual work
8 time?

9 MR. MIZRAHI: Objection to the form of
10 that question.

11 Tony, you may respond.

12 THE WITNESS: I don't know of any
13 situation like that. I know that when a guy is
14 told you're working from 7:00 to 3:00, 3:00 he's
15 leaving. And if there's any issues he needs to
16 work overtime, he will call it in, and we will
17 look for it to make sure it reflects on his time
18 sheet when he comes in.

19 BY MR. LEE:

20 Q. But I believe the policy at your company
21 is that everybody is supposed to be working to
22 their scheduled shift hours and they can't put in
23 their actual time. Is that true?

24 MR. MIZRAHI: Objection to the form of
25 that question.

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1 Tony, you may respond.

2 THE WITNESS: I'm not sure what you're
3 asking me. Can you rephrase that?

4 BY MR. LEE:

5 Q. Basically for all of your employees at
6 Thermo Tech, similar to Mr. Lopez, they're logging
7 in at their scheduled start time; right?

8 A. Yes.

9 Q. And they're logging out at their
10 scheduled completion time; right?

11 A. Yes.

12 Q. And nobody can actually put down the
13 exact time when they started work, if it was a
14 little bit before or after their start time;
15 right?

16 MR. MIZRAHI: Objection to the form of
17 that question.

18 Tony, you may respond.

19 THE WITNESS: The rule is your shift
20 starts at this time and your shift ends at that
21 time. If you want to work any additional hour,
22 earlier or later, it must be authorized and we
23 will make sure the time sheet reflects that.

24 BY MR. LEE:

25 Q. Okay.

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 MR. LEE: Jenie, can I trouble you to go 2 back to Exhibit P2. And if I could have you go to 3 page five. 4 BY MR. LEE: 5 Q. So on Exhibit P2, in paragraph 17, it 6 states, "Defendant Shanty Budhu, the company's 7 accountant, would prevent plaintiff and other 8 employees from writing down the precise time they 9 finish working. If plaintiff tried to do so, 10 defendant Shanti Budhu would tell him, no, we 11 don't do that here. Instead, plaintiff was 12 required to round down his time worked to the 13 nearest half hour." 14 Is that accurate? 15 A. No. 16 Q. What's not accurate about that 17 statement? 18 A. They need to -- they have their shift, 19 and if they're working half an hour later, one 20 hour later, you must write down that's the time. 21 We don't really try to get people to work for -- 22 stop working at 4:58 or you're going to stop 23 working at 4:35 or 4:37. You want to tell 24 somebody you want to work a half hour more, you 25 want to work two hours overtime, you want to work</p>	<p style="text-align: right;">Page 31</p> <p>1 three hours overtime. 2 I don't say you have to work 3 hours and 3 45 minutes and 32 seconds. You have to say, hey, 4 you're going to work two hours overtime, okay, no 5 problem. Punch out. 6 Q. So for the rest of that paragraph, it 7 says if the plaintiff finished working at 4:25, he 8 would have to write down 4:00. Defendant Shanti 9 Budhu would tell him you have to complete that 10 half hour for it to count. 11 Is that statement accurate? 12 A. No. 13 Q. How is that not accurate? 14 A. Because overtime are being authorized 15 and you're told, okay, this is when you start and 16 this is when you stop. So if you're going to be 17 one hour overtime, you're going to write one hour. 18 If you work one hour and a half OT, you work one 19 hour and a half overtime. 20 Q. How about 25 minutes, is somebody able 21 to put down 25 minutes overtime? 22 A. The rule is if you're authorized to work 23 one hour, you work one hour. If you're authorized 24 to work one hour and a half, you work one hour and 25 a half.</p>
<p style="text-align: right;">Page 32</p> <p>1 Q. If you're not authorized to work -- 2 (Simultaneous speaking.) 3 BY MR. LEE: 4 Q. Hold on. 5 So if you're not authorized to work the 6 25 minutes, if you do the work, you're not going 7 to get paid for it; right? 8 A. You're not supposed to not follow the 9 company policy. If the company says that you're 10 authorized to work overtime, that's when you do 11 it. If you work overtime and you report it 12 afterwards, we will pay you, but we will also let 13 you know don't do it. We will warn you not to do 14 it, because after that, everybody would want to do 15 their own thing. They will come in any time and 16 say, I worked after for two hours yesterday. 17 Nobody paid me for it. 18 No, you can't do that. 19 MR. LEE: That's fine. Why don't we 20 take a break, and we'll log back in at 21 12:00 everybody. 22 (Recess from 10:54 a.m. to 12:17 p.m.) 23 MR. LEE: Thanks for accommodating, 24 guys. We can go back on when you guys are ready. 25</p>	<p style="text-align: right;">Page 33</p> <p>1 BY MR. LEE: 2 Q. Thank you, Mr. Budhu. Thank you for 3 taking the break. If I may, I know you testified 4 earlier that your wife Shanti was in charge of 5 payroll until 2019; is that right? 6 A. Yes, somewhere around there, yeah. I 7 don't remember the exact dates. 8 Q. But just to clarify, I guess she was 9 only doing like input for the payroll. You're 10 actually the person who is responsible for 11 payroll; is that right? 12 A. Yeah. I review the payroll before she 13 inputs it in. 14 Q. Okay. And your wife's full legal name 15 is Shamwattie Budhu; is that correct? 16 A. Yes. 17 Q. And you just call her Shanti for short; 18 is that right? 19 A. Yes. 20 Q. Now, I know I'd asked your counsel, 21 Mr. Mizrahi, before to depose her because of her 22 prior position as a bookkeeper at the company. 23 And I usually don't like to inquire about this, 24 but is she -- I know you mentioned she's disabled, 25 right, but is she disabled like in she can't walk?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Her right hand, right foot, right side 2 of her body does not function. Her left hand 3 functions about 30 percent. 4 Q. So is she bedridden, or is she in a 5 wheelchair? 6 A. Bedridden. She goes from bed to 7 wheelchair. 8 Q. Is she mentally coherent or she's not 9 mentally coherent? 10 MR. MIZRAHI: Objection to the form of 11 that question. 12 Tony, you can respond. 13 THE WITNESS: She's mentally coherent. 14 BY MR. LEE: 15 Q. Thank you. So let's go to Exhibit P10. 16 I'm sorry. 17 MR. LEE: Jenie, can we actually go to 18 Exhibit P5. If we can go to what's Bates-stamped 19 P33 under P5, Jenie. I'm sorry. Can we go to 33. 20 If you can blow it up a little bit. 21 BY MR. LEE: 22 Q. Do you see the paystub in front of you, 23 sir, that's Bates-stamped P33 under Plaintiff's 24 Exhibit 5? 25 A. Okay.</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. Do you recognize this as a sample 2 paystub for Juan Lopez? 3 A. Yeah. 4 Q. And do you recognize the pay rate for 5 Juan Lopez for this pay period which starts 6 September 24, 2016? 7 A. Yeah. 8 Q. His regular pay rate is \$20, and he 9 worked 34 hours flat. 10 Do you see that on the top row? 11 A. Um-hum. 12 Q. You need to verbalize your responses 13 either "yes" or "no." 14 A. Yes. 15 Q. And so 20 times 34, he's paid \$680. 16 Do you see that, sir? 17 A. Yes. 18 Q. And do you see on the top right-hand 19 side, it says ADP on this earnings statement? 20 A. Yes. 21 Q. And so you recognize ADP was a payroll 22 service provider for your company; is that right? 23 A. Yes. 24 Q. And you recognize on the top left-hand 25 side it has Thermo Tech Mechanical as the employer</p>
<p style="text-align: right;">Page 36</p> <p>1 for Mr. Juan Lopez. 2 Do you see that, sir? 3 A. Yes. 4 Q. And on the earnings column in the third 5 row, do you see a line item that says prevail? 6 Do you see that, sir? 7 A. Yes. 8 Q. Okay. And so do you see that he is -- 9 he has a 32.46 rate for his prevailing wage pay 10 rate; is that accurate? 11 A. Yes. 12 Q. And the prevailing wage would be what is 13 paid for contractors working for certain 14 governmental projects; is that right? 15 A. Yes. 16 Q. And certain governmental projects have a 17 certain required prevailing wage that you would 18 pay your workers for such projects; right? 19 A. Yes. 20 Q. And you understand that regardless of 21 your contracted pay rate with Mr. Lopez or any 22 other employee at your company, for prevailing 23 wage projects, you need to pay the specified 24 prevailing wage on certain governmental projects 25 to employees; right?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Absolutely. 2 Q. Now, do you see the fourth line item 3 that says supl b? 4 Do you see that, sir? 5 A. Yes. 6 Q. What does that mean? 7 A. Supplemental benefit. 8 Q. Can you tell me what supplemental 9 benefits are? 10 A. The government mandates two rates to be 11 given to an employee for a given task depending on 12 what the task is. For those tasks, they have two 13 rates to be paid, prevailing wage and supplemental 14 benefits. 15 Q. Okay. So for this project that 16 Mr. Lopez was working on, he worked six hours on a 17 prevailing wage project where he got the 18 prevailing wage rate of 32.46 and he also got the 19 supplemental benefit of 13.53 per hour; is that 20 right? 21 A. Yes. 22 Q. And so generally, are the pay statements 23 with these similar earnings details what's 24 provided to all of your HVAC installers and 25 servicers and those kind of guys?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. Yeah. Those pay rates are based on the</p> <p>2 task that was performed.</p> <p>3 Q. Okay. I'm just talking about the</p> <p>4 information. The information that's provided on</p> <p>5 your earnings statements to your employees are</p> <p>6 generally the same, right, outside of office</p> <p>7 workers; right?</p> <p>8 A. Yeah. Those line items tell you your</p> <p>9 prevailing wage rates and your regular hours</p> <p>10 rates.</p> <p>11 Q. Just so we're clear, Juan Lopez, what</p> <p>12 did he work for you as, do you recall?</p> <p>13 A. He was basically a helper, assisting the</p> <p>14 sheet metal worker and sometimes going to</p> <p>15 supervise the PLA workers.</p> <p>16 Q. Okay. And he got paid overtime just</p> <p>17 like any of your other workers; right?</p> <p>18 A. Absolutely.</p> <p>19 Q. And the way he was required to input his</p> <p>20 time or to report this hours worked was similar to</p> <p>21 other employees also; is that correct?</p> <p>22 MR. MIZRAHI: Objection to the form of</p> <p>23 that question.</p> <p>24 Tony, you can respond.</p> <p>25 THE WITNESS: We have one protocol for</p>	<p style="text-align: right;">Page 39</p> <p>1 all employees.</p> <p>2 BY MR. LEE:</p> <p>3 Q. Okay. And you don't treat Mr. Lopez any</p> <p>4 worse or better than any of your other employees;</p> <p>5 is that right?</p> <p>6 A. Absolutely not.</p> <p>7 Q. You treat all your employees the same;</p> <p>8 right?</p> <p>9 A. Absolutely.</p> <p>10 Q. Do you believe that you are a fair</p> <p>11 employer?</p> <p>12 A. Wholeheartedly I do.</p> <p>13 Q. Has anybody ever complained to you about</p> <p>14 how they were treated at work?</p> <p>15 A. In what sense?</p> <p>16 Q. Did anybody complain about being</p> <p>17 shortchanged for their pay?</p> <p>18 A. Not that I know, no. Employees always</p> <p>19 want to make more money, of course. That's the</p> <p>20 nature of everyone. They will always wish they</p> <p>21 could make more and they want to perform more, and</p> <p>22 we will try to (indecipherable) to do better to</p> <p>23 grow, and that's basically their regular</p> <p>24 day-to-day operation on how you deal with</p> <p>25 employees. They will always want more just like</p>
<p style="text-align: right;">Page 40</p> <p>1 myself. You always want to make more.</p> <p>2 MR. LEE: Jenie, on the same exhibit,</p> <p>3 can you go further down until you get to</p> <p>4 Bates-stamp 54. I'm sorry. Actually, why don't</p> <p>5 you go to 53 first.</p> <p>6 BY MR. LEE:</p> <p>7 Q. Do you see this text message to a person</p> <p>8 named Adam?</p> <p>9 A. Okay.</p> <p>10 Q. Do you know, is there an Adam that</p> <p>11 worked at your company?</p> <p>12 A. We had an intern that was doing basic</p> <p>13 clerical assistance at one time, college student.</p> <p>14 MR. MIZRAHI: Before you ask your next</p> <p>15 question, C.K., can you please refer to the</p> <p>16 Bates-stamp number of the document you're</p> <p>17 displaying on your screen?</p> <p>18 MR. LEE: 53.</p> <p>19 MR. MIZRAHI: Can you please display the</p> <p>20 Bates-stamp number of the document you're</p> <p>21 displaying on your screen?</p> <p>22 MR. LEE: It's displayed. It's 53.</p> <p>23 THE WITNESS: Can you please scroll down</p> <p>24 to the Bates-stamped number. I don't see it.</p> <p>25 MR. LEE: Do you see it now, Jason?</p>	<p style="text-align: right;">Page 41</p> <p>1 THE WITNESS: I don't see it, no.</p> <p>2 MR. LEE: It's way at the bottom.</p> <p>3 MR. MIZRAHI: For the record, the</p> <p>4 document that is being displayed does not appear</p> <p>5 to have a Bates-stamped number, and I've never</p> <p>6 seen this document produced before.</p> <p>7 MS. MARIANI: If you look all the way</p> <p>8 down to your right, the Bates stamp is there. Now</p> <p>9 it's highlighted in blue.</p> <p>10 MR. LEE: I don't know what's wrong with</p> <p>11 your screen, Jason, but it's Bates-stamped.</p> <p>12 MR. MIZRAHI: I don't see it. It could</p> <p>13 be your display settings.</p> <p>14 Ann, can you tell me if you see it?</p> <p>15 COURT REPORTER: Yes, I see it.</p> <p>16 MR. MIZRAHI: I'm not sure why it's not</p> <p>17 coming up.</p> <p>18 MR. LEE: I'm not playing hide the ball.</p> <p>19 You have this document. You have the whole stack.</p> <p>20 MR. MIZRAHI: No, no, no. My Zoom</p> <p>21 screen was hiding it. I see it in red. Sorry</p> <p>22 about that.</p> <p>23 BY MR. LEE:</p> <p>24 Q. Let's go to the next page. Do you</p> <p>25 recognize this document, sir?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. Yes. It's a time sheet.</p> <p>2 Q. So these are the time sheets that all</p> <p>3 your employees fill out when they are on jobsites?</p> <p>4 A. Yeah.</p> <p>5 Q. Do they fill it out on the jobsite, or</p> <p>6 do they fill it out back in the office?</p> <p>7 A. They have it for the whole week. They</p> <p>8 have to turn it in at the end of the week.</p> <p>9 Q. And then you see the employee's</p> <p>10 signature; right?</p> <p>11 Do you see that?</p> <p>12 A. Yeah.</p> <p>13 Q. Do you recognize that as Juan Lopez's</p> <p>14 signature?</p> <p>15 A. Yes.</p> <p>16 Q. And you review all of these time sheets</p> <p>17 before people get paid; right?</p> <p>18 A. Yes.</p> <p>19 Q. Now, when I say you, I don't mean you as</p> <p>20 a company. You as a person, you individually</p> <p>21 review them; right?</p> <p>22 A. I review them. Sometimes if I'm not</p> <p>23 around, I will ask, you know, Steven or maybe make</p> <p>24 sure Shanti is, like, hey, do you see anything out</p> <p>25 of the way. But 99 percent of the time I do.</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. You'll notice the supervisor's signature</p> <p>2 is not signed. Is that appended that way or does</p> <p>3 sometimes the supervisor sign?</p> <p>4 A. Yeah. They're all put together for me</p> <p>5 to sign at a later time, but we make sure the</p> <p>6 employee received them at the same time. But for</p> <p>7 some reason, I don't get the time to go sign it,</p> <p>8 but we have the record here.</p> <p>9 Q. You would be the supervisor that</p> <p>10 otherwise would sign this sheet; right?</p> <p>11 A. Yes.</p> <p>12 Q. And so when you review it and every day</p> <p>13 it says eight hours, you don't have a problem with</p> <p>14 that; right?</p> <p>15 A. No.</p> <p>16 Q. Okay. And you don't have a problem that</p> <p>17 the time being inputted is not exact to the minute</p> <p>18 and that it's rounded to the nearest hour; is that</p> <p>19 right?</p> <p>20 MR. MIZRAHI: Objection to the form of</p> <p>21 that question.</p> <p>22 Tony, you can respond.</p> <p>23 BY MR. LEE:</p> <p>24 Q. What was your answer, sir?</p> <p>25 A. I don't have any issue there. That's</p>
<p style="text-align: right;">Page 44</p> <p>1 the rule and that's what I see.</p> <p>2 MR. LEE: If I can go to next page,</p> <p>3 Jenie.</p> <p>4 BY MR. LEE:</p> <p>5 Q. So this is a site report; right?</p> <p>6 A. Yep.</p> <p>7 Q. And do you have a site report for every</p> <p>8 location on a daily basis, or is it just something</p> <p>9 that you do every now and then when something</p> <p>10 happens?</p> <p>11 A. No. There's supposed to be a daily log</p> <p>12 every day of every task that we do.</p> <p>13 Q. Every day that you're on site, you</p> <p>14 should have a daily site report?</p> <p>15 A. Yeah. We have a site report to say how</p> <p>16 many guys doing what.</p> <p>17 Q. And you don't know who fills it out?</p> <p>18 For example, do you know who filled out this site</p> <p>19 report?</p> <p>20 A. The site super.</p> <p>21 Q. I'm sorry. The site super?</p> <p>22 A. Yes.</p> <p>23 Q. And here it would be Juan Lopez; right?</p> <p>24 Is he supervising?</p> <p>25 A. Looking at the document, it looks like</p>	<p style="text-align: right;">Page 45</p> <p>1 he was supervising at that time.</p> <p>2 Q. Okay. Do you guys text employees after</p> <p>3 work hours to give them instructions about work?</p> <p>4 A. Sometimes we do if there's a change in</p> <p>5 plan from the day before. Just to make sure that</p> <p>6 we don't make a mistake, we'll send a group chat</p> <p>7 out or we'll send a text message just to give</p> <p>8 them -- keep them alert. They don't have to</p> <p>9 respond. We're hoping they do find it. I know</p> <p>10 that everybody look at their phones at all times.</p> <p>11 But first thing in the morning they check in to</p> <p>12 make sure that they get what they have to get and</p> <p>13 be where they're supposed to be.</p> <p>14 Q. But you do expect employees to check</p> <p>15 their phones to make sure that they know where</p> <p>16 they're going and they're supposed to be where</p> <p>17 they are at the correct time; is that right?</p> <p>18 A. We have a time sheet that is being</p> <p>19 posted on an app. And that time sheet usually</p> <p>20 gets updated by the end of the day. That's the</p> <p>21 next day's schedule, next week's schedule,</p> <p>22 whatever look ahead we have on who is going where.</p> <p>23 And that's what they should follow and they should</p> <p>24 know when to come in.</p> <p>25 Some jobsites are a one-hour drive away,</p>

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1 and some jobsites are a ten-minute drive away.
 2 They should know when to leave to get there.
 3 Q. Now, I believe that Mr. Lopez's work
 4 schedule is typically starting around 6:00 or
 5 7:00 in the morning and ends around 2:00 or
 6 3:00 in the afternoon. Is that accurate?
 7 A. Yes.
 8 Q. I believe that was the schedule the
 9 whole time when he was at Thermo Tech; is that
 10 right?
 11 A. Not all the time. There's evening work
 12 also.
 13 Q. Okay. Okay.
 14 MR. LEE: Jenie, if I can trouble you to
 15 go to the next page.
 16 BY MR. LEE:
 17 Q. Do you see this text message from Juan
 18 to Steve?
 19 Do you see that, sir?
 20 A. Yeah.
 21 Q. Okay. So when you guys, you know, send
 22 out text messages or when you see employees
 23 sending text messages to management at Thermo
 24 Tech, do they get compensated for their outside of
 25 work time?

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1 Q. Okay. And they would tell them like
 2 what to do, what to install, like that kind of
 3 stuff?
 4 A. Yeah. Read the plan and tell them they
 5 have to go this much higher, go by this
 6 measurement over there, and give them guidance and
 7 tell them to bring this in, bring that in, put
 8 this up, usual when you're helping somebody.
 9 Q. Does he have to pay for his own
 10 equipment?
 11 A. No.
 12 Q. The equipment is provided by the
 13 company?
 14 A. Yes.
 15 MR. LEE: Jenie, can I trouble you to go
 16 to Plaintiff's Exhibit 10.
 17 BY MR. LEE:
 18 Q. Before we start talking about this
 19 exhibit, sir, after you received notice of this
 20 lawsuit, did you ever go back and check the
 21 employee's pay records to see if he was ever short
 22 paid for any of his pay periods?
 23 A. Yeah, we did. We were just making sure
 24 that we don't make a mistake anywhere.
 25 Q. And could you find any mistakes that you

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1 A. Text messages are not compensated for,
 2 and it's not mandatory. We don't expect someone
 3 to respond to a text message at any given time.
 4 We just send text messages just to leave it out
 5 there to make sure, you know, they get it at some
 6 point. This is not a mandatory you must reply to
 7 it. This is just standard communication just to
 8 make sure that we don't make mistakes or we don't
 9 go to the wrong place.
 10 But this is not paid time, and this is
 11 not an expectation of work, that you must respond
 12 and do anything because this is outside of work
 13 hours.
 14 Q. What would you say -- so Mr. Lopez you
 15 said was a helper; right? Is that what you said?
 16 A. Yes.
 17 Q. So he would help the licensed HVAC guys?
 18 A. Sheet metal mechanics, guys that have
 19 years and years of experience.
 20 Q. Can you say that again?
 21 A. He will assist licensed guys and he will
 22 also assist sheet metal workers.
 23 Q. Okay. And when you say assist, he
 24 would, I guess, work under their supervision?
 25 A. Yes.

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1 guys made in terms of what he should have been
 2 paid?
 3 A. I think there was -- like somewhere
 4 there was a half hour or something or a few
 5 minutes or something, one incident that I could
 6 recall of. Nothing more than that.
 7 Q. Okay. Okay. If I were to tell you that
 8 there were certain instances where even based on
 9 his time in/time out logs, he would have been
 10 short on his pay for his paystubs, would you feel
 11 that -- would you agree that he was short paid
 12 then?
 13 MR. MIZRAHI: Objection to the form of
 14 the question.
 15 Tony you can respond.
 16 THE WITNESS: What's on his paystub is
 17 what he should have received.
 18 BY MR. LEE:
 19 Q. But the time that's on the paystub is
 20 directly from his punch in/punch out logs; right?
 21 A. Yes. Not log, but his time sheet.
 22 Q. Yeah, his time sheet.
 23 A. We have an app to show that you're at
 24 the location and the time sheet to confirm that
 25 you were there at that time and you leave at that

<p style="text-align: right;">Page 50</p> <p>1 time.</p> <p>2 Q. And so do you see this employee manual,</p> <p>3 sir?</p> <p>4 A. Yeah.</p> <p>5 Q. And this is an employee manual that</p> <p>6 relates to all employees at Thermo Tech; right?</p> <p>7 A. Yeah.</p> <p>8 Q. And the policies stated herein are</p> <p>9 accurate and implemented at Thermo Tech?</p> <p>10 A. To the best of my knowledge and the best</p> <p>11 I know what we know we should be doing.</p> <p>12 MR. LEE: Jenie, can I trouble you to go</p> <p>13 to Bates-stamped 13 on this exhibit. I'm sorry,</p> <p>14 Jenie. Can we go to page 3 first.</p> <p>15 BY MR. LEE:</p> <p>16 Q. Do you see what's Bates-stamped 3 from</p> <p>17 the employee handbook, sir?</p> <p>18 A. Yes.</p> <p>19 Q. So do you recognize these four</p> <p>20 individuals as what would be considered management</p> <p>21 at Thermo Tech?</p> <p>22 A. Yeah.</p> <p>23 Q. That would be yourself, Steve, Shanti</p> <p>24 and Pheronya; correct?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Would Melissa Amjit now be considered</p> <p>2 part of management?</p> <p>3 A. Yeah, somewhere around that time,</p> <p>4 Melissa came in.</p> <p>5 Q. Do you have a newer version of this</p> <p>6 employee manual, or is this employee manual</p> <p>7 effective since the date on it, which is May 2018?</p> <p>8 A. No. It's changed. It's ever changing</p> <p>9 and it's improved and reviewed. It's changed.</p> <p>10 Q. Do you know when was the first revision</p> <p>11 after 2018?</p> <p>12 A. Not off my memory.</p> <p>13 Q. Was there a version prior to this</p> <p>14 May 2018 version?</p> <p>15 A. No.</p> <p>16 Q. This was the first one; right?</p> <p>17 A. This was the first. We're trying to</p> <p>18 make sure we do the right thing and do the best we</p> <p>19 can.</p> <p>20 MR. LEE: Jason, can you provide the</p> <p>21 later version of the handbook?</p> <p>22 MR. MIZRAHI: C.K., why don't we talk</p> <p>23 about this off the record.</p> <p>24 MR. LEE: Okay. Jenie, if I could</p> <p>25 trouble you to go to page 13. If you could blow</p>
<p style="text-align: right;">Page 52</p> <p>1 it up a little bit.</p> <p>2 BY MR. LEE:</p> <p>3 Q. Are you able to read the paragraph 7.1</p> <p>4 from the handbook on your screen, sir?</p> <p>5 A. "It is mandatory for each employee to</p> <p>6 fill out a time sheet for each work shift."</p> <p>7 Q. That's fine. You don't have to read the</p> <p>8 whole thing. I wanted to direct your attention to</p> <p>9 the third paragraph. And I believe it says,</p> <p>10 "Should your time sheet be incorrectly written,</p> <p>11 your supervisor will not note the correct start or</p> <p>12 end time."</p> <p>13 Do you see that, sir?</p> <p>14 A. Um-hum.</p> <p>15 Q. You have to say "yes" or "no."</p> <p>16 A. Yes.</p> <p>17 Q. So can you explain why if a person's</p> <p>18 time sheet is incorrectly written, the supervisor</p> <p>19 purposely will not note the correct start or end</p> <p>20 time?</p> <p>21 A. I'm not sure how that language is there.</p> <p>22 In all actuality, if something is written</p> <p>23 incorrectly, it has to be called out. It has to</p> <p>24 be informed to the employee. And it has to be</p> <p>25 noted. Something there in that language is</p>	<p style="text-align: right;">Page 53</p> <p>1 incorrect. Probably that needs to be corrected</p> <p>2 and fixed, because that's not how we go about</p> <p>3 doing business. If something is not right, you</p> <p>4 have to fix it and call the employee up and show</p> <p>5 where it is and note it.</p> <p>6 That "not" should have been out of</p> <p>7 there. Will note the start end time and initial</p> <p>8 the correction, yeah. Maybe it's a typo in there.</p> <p>9 "Not" should not have been there. Why would you</p> <p>10 not want to do something?</p> <p>11 Q. That's kind of what was being alleged</p> <p>12 here, where people tried to put in the correct</p> <p>13 time and they were told that they had to put in</p> <p>14 their scheduled hours. But let's move on.</p> <p>15 A. That's got to be a typo. It doesn't</p> <p>16 make sense to not correct something if you see it.</p> <p>17 Q. Do you know where you got the employee</p> <p>18 manual from? Do you know who prepared it for you?</p> <p>19 A. We had a former employee that had a file</p> <p>20 that she shared with me. From a long time ago she</p> <p>21 said she had it. I don't know from where. And</p> <p>22 then we take it and take the pieces and put it</p> <p>23 together to make sure that we meet the DOL</p> <p>24 standards and try to create a manual for us. So</p> <p>25 that way we have something to follow.</p>

<p style="text-align: right;">Page 54</p> <p>1 MR. LEE: If I could trouble Jenie to go 2 back to Bates-stamped number 18, please. If you 3 can blow it up, and we're going to look at -- 4 actually forget it. I'm going to move on. I'm 5 sorry. So under -- actually let's go ahead and do 6 this. If you look at 8.5. Scroll down a little 7 bit, Jenie. 8 BY MR. LEE: 9 Q. It says, "If you want additional time 10 for maternity leave," and this is the last 11 sentence, "additional time may be allowed under 12 unusual circumstances and with the permission of 13 your supervisor." 14 Do you see that, sir? 15 A. Hold on. I can't see that well. Which 16 one are you talking about? 8.6? 17 Q. 8.5. 18 A. 8.5, additional time may be allowed 19 under usual circumstances -- unusual. There's 20 some typo there. It's definitely unusual 21 circumstance with permission of your -- no -- 22 under -- 23 Q. Do you think it should say usual 24 circumstances? 25 A. I think that should say under -- I mean,</p>	<p style="text-align: right;">Page 55</p> <p>1 there are circumstance. Life is not perfect. 2 There are some kind of a circumstance where people 3 need to have additional time, you know. We 4 don't -- we try to do everything the best we can, 5 write it the best we can and implement it as best 6 we can. And there are going to be exceptions from 7 time to time that we have to make calls to make 8 sure that we do the right things. 9 Not everybody comes back in on time. 10 Yeah, we try to have some kind of a standard. We 11 use our common sense at the end of the day to see 12 what works. This is about teamwork. Things 13 happen. And I think that language is trying to 14 say, hey, if there's additional time, we will try 15 to work with you. 16 Q. Under 8.10 on the next page, under time 17 off, time off for voting, it says "You'll be 18 allowed a reasonable period of time to vote in 19 case you are unable to vote before or after your 20 regular hours if your work hours make it difficult 21 or impossible to vote otherwise." 22 Do you see that, sir? 23 A. Um-hum. 24 Q. You have to say "yes" or "no." 25 A. Yes.</p>
<p style="text-align: right;">Page 56</p> <p>1 Q. That's something you implement at the 2 Thermo Tech? 3 A. We will allow people to go to vote. We 4 wouldn't stop anyone from going to vote. You got 5 to go vote, you got to go vote. 6 Q. That's actually not what it says. That 7 says you will only allow them to go vote if it 8 otherwise is impossible for them to vote on their 9 own personal time. 10 Do you see that? 11 A. I think the language there, something is 12 wrong with it. This has got to be corrected. 13 That's not how we operate. The language is 14 written poorly. 15 Q. Okay. And then let's move on. If we 16 can scroll down to Defendant's 22. I'm sorry. 17 It's the same exhibit, but it's Bates-stamped 22. 18 So this is Bates-stamped 22. Do you see 19 this paragraph 10 under -- do you see what this 20 says about arbitration, sir? 21 A. What is that about? I see a letterhead 22 and I see a bunch of writing. Where did that come 23 off? 24 Q. This is from the employee manual. 25 A. Okay.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. This is the second to last page of the 2 employee manual. 3 A. Okay. 4 Q. So do you recognize that there is an 5 arbitration provision that you have included in 6 your employee manual? 7 Do you see that, sir? 8 A. Yeah. 9 Q. Now, you may recall in this lawsuit at 10 one point was an arbitration. Do you recall that, 11 sir? 12 A. I don't know the legal process. I only 13 listened to my lawyer, and he advised me whatever 14 the next court date or whatever I need to do. I 15 don't know about this arbitration. 16 Q. Do you recall at one point you refused 17 to pay the arbitration cost and that's why we had 18 to go back to court? 19 MR. MIZRAHI: Objection to the form of 20 that question. 21 Tony, you can respond. 22 THE WITNESS: I don't know what 23 arbitration is. All I know is I pay my bills 24 every time I need to pay something. 25</p>

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1 BY MR. LEE:
2 Q. Do you know what this paragraph ten
3 means? Do you have any idea?
4 A. No.
5 Q. I can direct your attention to page 23.
6 If you can scroll down.
7 Do you see this is a signature for a
8 confidentiality agreement with Mr. Juan Lopez?
9 Do you see that?
10 A. Yeah.
11 Q. And he's the employee.
12 Do you see that?
13 A. Yeah.
14 Q. There's a placeholder for the employer
15 to sign and that would be you.
16 Do you see that?
17 A. Yeah.
18 Q. And you agree that you are Juan Lopez's
19 employer; correct?
20 A. Yeah.
21 Q. And you agree that you're the employer
22 for all of the employees at Thermo Tech
23 Mechanical; correct?
24 A. Yes.
25 Q. Let me direct your attention to 31. Do

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1 off the street? And then we'll give you back the
2 money.
3 Q. So what day of the week are employees
4 required to submit their time sheets?
5 A. At minimum by Tuesday morning.
6 Q. By Tuesday morning?
7 A. For the week before.
8 Q. Okay. So the week closes on a Friday?
9 A. Friday is when the paycheck actually
10 comes to the office. We have to send it in at
11 least by Wednesday to ADP, and it will be in our
12 office Friday morning.
13 Q. That's for the prior week; right?
14 A. Yeah.
15 Q. So at the bottom of the time sheet, do
16 you see it says -- Jenie, if you can blow it up --
17 it says you must fill it out every day. Do you
18 know what that statement means because --
19 A. It's supposed to be fill it out every
20 day.
21 Q. You recognize the sentence by itself
22 makes no sense; right?
23 A. Yeah, yeah. Like I said, we're a small
24 business. We learn. We do a lot of crazy shit.
25 And then after that, we correct ourself. I'm sure

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1 you see the handwritten notation towards the
2 bottom half of the page on Bates-stamp 31 for
3 Exhibit 10?
4 A. Okay.
5 Q. Do you recognize the handwriting on this
6 time sheet?
7 A. Yeah. That's my handwriting.
8 Q. That's your handwriting; right?
9 A. Yes.
10 Q. About "please complete work"; is that
11 right?
12 A. Yeah. They are supposed to be written
13 down somewhere about where they work.
14 Q. And then you're also adding amounts owed
15 for gas and tolls, right, to Mr. Lopez; is that
16 right?
17 A. Yes. If they use any petty cash for
18 themselves, we will reimburse them. Sometimes
19 they don't bring -- usually there's a guy with a
20 credit card to give you to fill up your gas or
21 whatever. But sometimes they don't follow up.
22 And then they're on the road and realize they
23 don't have gas. They don't have this. And then
24 they have to dig out of their pocket because, you
25 know, what can we do. Send somebody to help you

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1 it's not like that now.
2 Q. So the next page, is this the pay
3 details for the prior time sheet that was
4 submitted? It looks like it; right?
5 A. Regular, overtime. What is that? 24
6 hours overtime, 40 hours regular. I got to look
7 at that.
8 Q. The prior one had the same thing; right?
9 A. Okay, if that's what you say.
10 MR. LEE: Jenie, do you want to go back
11 up. I just want him to confirm it.
12 BY MR. LEE:
13 Q. So here at the top you see 40 and 24?
14 A. Yeah, 24 hours overtime, 40 hours
15 straight time.
16 Q. So for every pay period, like there's a
17 payment detail page that comes out; right?
18 A. Yeah.
19 Q. And does the employee receive this?
20 A. Yeah. It's ADP. They're a company. If
21 you don't fill in the information online in their
22 system -- it has to have a line item to go with
23 it. We don't make payroll. This comes from the
24 payroll company. We have to fill in everything
25 what we're paying for.

<p style="text-align: right;">Page 62</p> <p>1 Q. And this goes to the employee?</p> <p>2 A. Of course.</p> <p>3 Q. Okay. We're going to go to Bates-stamp</p> <p>4 131. Can you tell me what these are? I'm showing</p> <p>5 you Bates-stamped 131, 132. Are these screenshots</p> <p>6 of something?</p> <p>7 A. Somebody taking a picture of a computer</p> <p>8 screen.</p> <p>9 Q. Yeah. Do you know what these are?</p> <p>10 A. It looks like the input in the time</p> <p>11 sheet information.</p> <p>12 Q. Yeah.</p> <p>13 A. Or maybe pulling information from the</p> <p>14 app to put into a time sheet because we have many</p> <p>15 ways of how we -- you have to find the app to make</p> <p>16 sure where the employees are at and to find where</p> <p>17 they punched, where they punch in and punch out,</p> <p>18 are they within the location, what was the shift,</p> <p>19 what was on their paper. So you have to document</p> <p>20 where you get your information from so you can sit</p> <p>21 and compare.</p> <p>22 So this could have been one of the</p> <p>23 documentation screen of where they're correcting</p> <p>24 data from the app to compare to the time sheet.</p> <p>25 MR. LEE: Jenie, can we go to 168. Can</p>	<p style="text-align: right;">Page 63</p> <p>1 you blow it up a little bit, Jenie.</p> <p>2 BY MR. LEE:</p> <p>3 Q. Can you tell me what this is, sir?</p> <p>4 A. Hold on one second. The start time, end</p> <p>5 time, wage, total benefit. This is a spreadsheet</p> <p>6 of a jobsite where Juan Lopez was documented in</p> <p>7 one of our submission.</p> <p>8 Q. Is this from like a project or a</p> <p>9 company?</p> <p>10 A. This is the data collected in total of a</p> <p>11 project of a location where an employee was</p> <p>12 working. This is an Excel sheet put together for</p> <p>13 a total snapshot of what happened to an employee</p> <p>14 within a time period. Yep.</p> <p>15 Q. If we can go to the next page.</p> <p>16 A. Okay.</p> <p>17 Q. Can you tell me what this is?</p> <p>18 A. That's the sign-in log to have a meeting</p> <p>19 with the construction authority and respond to</p> <p>20 Juan Lopez stating that we didn't pay him</p> <p>21 prevailing wages.</p> <p>22 Q. So what happened after that?</p> <p>23 A. The construction authority thinks that</p> <p>24 his claim is of no substance and they don't have</p> <p>25 need to do anything for it.</p>
<p style="text-align: right;">Page 64</p> <p>1 MR. LEE: Let's take a break until 1:15</p> <p>2 and I might be done soon. Okay?</p> <p>3 THE WITNESS: Okay.</p> <p>4 MR. LEE: Thanks everybody.</p> <p>5 (Recess from 1:07 p.m. to 1:15 p.m.)</p> <p>6 MR. LEE: Thank you for appearing.</p> <p>7 We're done.</p> <p>8 MR. MIZRAHI: Thank you.</p> <p>9 MR. LEE: Ann, I'll just take a regular.</p> <p>10 MR. MIZRAHI: Just a quick note for the</p> <p>11 record before we jump off. Defendant's counsel</p> <p>12 respectively reserves to request a copy of</p> <p>13 transcript pursuant to the Federal Rules of Civil</p> <p>14 Procedure.</p> <p>15 MR. LEE: Thanks, everyone.</p> <p>16 (Whereupon, at 1:15 p.m., the taking of</p> <p>17 the instant deposition ceased.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 65</p> <p>1 COMMONWEALTH OF PENNSYLVANIA)</p> <p>2 COUNTY OF ALLEGHENY) SS:</p> <p>3 C E R T I F I C A T E</p> <p>4 I, Ann Medis, RPR, CLR, CSR-WA and</p> <p>5 Notary Public within and for the Commonwealth of</p> <p>6 Pennsylvania, do hereby certify:</p> <p>7 That GOWKARRAN BUDHU, the witness whose</p> <p>8 deposition is hereinbefore set forth, was duly</p> <p>9 sworn by me and that such deposition is a true</p> <p>10 record of the testimony given by such witness.</p> <p>11 I further certify the inspection,</p> <p>12 reading and signing of said deposition were waived</p> <p>13 by counsel for the respective parties and by the</p> <p>14 witness.</p> <p>15 I further certify that I am not related</p> <p>16 to any of the parties to this action by blood or</p> <p>17 marriage and that I am in no way interested in the</p> <p>18 outcome of this matter.</p> <p>19 IN WITNESS WHEREOF, I have hereunto set</p> <p>20 my hand this 18th day of October, 2023.</p> <p>21</p> <p>22</p> <p>23 _____</p> <p>24 Notary Public</p> <p>25</p>

1 *** ERRATA SHEET ***
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 216 E. 45th Street, Suite #903
 3 NEW YORK, NEW YORK 10017
 (212) 400-8845

4 CASE: JUAN LOPEZ vs. THERMO TECH MECHANICAL, INC.
 DATE: SEPTEMBER 28, 2023

5 WITNESS: GOWKARRAN BUDHU REF: 7982

6 PAGE LINE FROM TO

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21 _____
 22 GOWKARRAN BUDHU

23 Subscribed and sworn to before me

24 this ____ day of _____, 20__.

25 _____
 Notary Public

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